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Attorneys for Defendant
FEDEX GROUND PACKAGE SYSTEM, INC.
i/p/a FEDEX CORPORATION

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

ROMAN KHAYTIN, :
Plaintiff, : Civil Action No.: 1:21-cv-5004
-against- :
FEDEX CORPORATION and JOHN DOE/JANE :
DOE, First and Last Names Being Fictitious as :
Unknown to Plaintiff, representing an unidentified :
person driving a motor vehicle, bearing an unknown :
license plate number, :
Defendants. :
:

To: United States District Court
Eastern District of New York
225 Cadman Plaza E
Brooklyn, NY 11201

PLEASE TAKE NOTICE THAT pursuant to 28 U.S.C. § 1441(b), FEDEX GROUND
PACKAGE SYSTEM, INC. i/p/a FEDEX CORPORATION (hereinafter referred to as “FedEx Ground”)
hereby removes this action from the Supreme Court of the State of New York, County of Kings, to the
United States District Court for the Eastern District of New York. In support of this Notice of Removal,
Defendant avers as follows:

1. On or about July 28, 2021, an action was commenced by Plaintiff in the Supreme Court of the State of New York, County of Kings, in New York, entitled ROMAN KHAYTIN v. FEDEX CORPORATION and JOHN DOE/JANE DOE, First and Last Names Being Fictitious as Unknown to Plaintiff, representing an unidentified person driving a motor vehicle, bearing an unknown license plate number. A copy of Plaintiff's Verified Complaint is attached hereto as Exhibit "A".

I. Notice of Removal is Timely Filed

2. Defendant FEDEX GROUND was served with the Complaint on or about August 5, 2021. Id.

3. This Notice of Removal is filed within thirty (30) days of service of the Summons and Complaint on Defendant.

II. Diversity of Citizenship Exists Between Plaintiff and Defendant

4. Upon information and belief, at the time of commencement of this action and the filing of this Notice of Removal:

- (a) Plaintiff was domiciled in the State of New York, County of Kings (see Summons and Complaint annexed hereto as Exhibit "A");
- (b) Defendant, FedEx Ground, is a Delaware corporation with its principal place of business in Moon Township, Pennsylvania.

5. The alleged accident took place at 1000 Willow Brook Road, in the County of Northampton, Commonwealth of Pennsylvania where Plaintiff was allegedly struck by a vehicle owned by Defendant. (See Exhibit "A" at paragraphs 23 and 26).

III. The Amount in Controversy Exceeds \$75,000

6. Plaintiff alleges that he has sustained severe and permanent personal injuries as a result of the accident. (See Exhibit "A" at paragraph 30).

7. Plaintiff further alleges he has sustained loss greater than basic economic loss of \$50,000 as defined in Article Fifty-One (“51”) of the Insurance Law of the State of New York. (See Exhibit “A” at paragraph 32).

8. Plaintiff demands judgement against Defendant “in a sum which exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.” (See Exhibit “A” at paragraph 35).

9. As Plaintiff alleges that he has suffered severe and permanent personal injuries and claims damages in excess of \$50,000, therefore, the amount in controversy exceeds the jurisdictional requirement of \$75,000.

10. Because Plaintiff and Defendant are citizens of different states, and because the amount in controversy exceeds \$75,000, the United States District Court for the Eastern District of New York has original jurisdiction pursuant to 28 U.S.C. § 1332 and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. § 1441(b) and 28 U.S. Code § 1332.

IV. Venue is Appropriate in This Court

11. The State Court Action is currently pending in the Supreme Court Kings County, New York, which is located within the United States District Court for the Eastern District of New York.

12. Thus, venue is proper in this Court because it is the “district and division embracing the place Where such [State Court] [A]ction is pending.” See U.S.C. § 1441(a).

V. Defendant Provided Appropriate Notice of Removal

13. Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice of Removal is being submitted for filing with the Clerk of the Supreme Court Kings County, New York and is being served upon counsel of record for Plaintiff. The removal is also attached hereto as Exhibit “B”.

14. By filing this Notice of Removal Defendant FedEx Ground does not waive any defects in service of process, venue, or personal jurisdiction, nor does it waive any other defenses available to it

under applicable state law and/or the Federal Rules of Civil Procedure.

15. By removing this action Defendants do not admit any of the allegations in Plaintiff's Complaint.

WHEREFORE, Defendant FedEx Ground respectfully requests that the action pending against them in the Supreme Court of the State of New York, County of Kings be removed therefrom to the United States District Court for the Eastern District of New York.

Dated: New York, New York
September 7, 2021

CALLAHAN & FUSCO, LLC
Attorneys for Defendants
FEDEX GROUND PACKAGE SYSTEM, INC. i/p/a
FEDEX CORPORATION

By: /s/ Mitchell Ayes
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CERTIFICATION OF SERVICE

I, Mitchell Ayes, of full age, being duly sworn, according to law and upon my oath, depose and say:

1. I am an attorney with the law firm of Callahan & Fusco, LLC, and am assigned the handling of this action.
2. On September 7, 2021, I electronically filed a copy of the within Notice and Petition of Removal, which was service via ECF and via regular mail upon:

Vel Belushin, Esq.
BELUSHIN LAW FIRM, PC
Attorneys for Plaintiff
1712 Kings Highway, Suite 2
Brooklyn, New York 11229

3. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Dated: September 7, 2021

By: _____ /s/ Mitchell Ayes
MITCHELL AYES